

is proper, "[t]he trial court has great discretion in establishing the time and place of a deposition." *Sheftelman v. Standard Metals Corp.*, 817 F.2d 625, 628 (10th Cir. 1987). Because the Plaintiff has greater influence over the choice of forum, "courts are more willing to protect defendant from having to come to the forum for the taking of his or her deposition than they are in the case of plaintiffs." Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 2112 (1994). As explained in *Metrex Research Corp. v. United States*, 151 F.R.D. 122 (D. Colo. 1993), "[i]n the absence of exceptional or unusual circumstances, when a deponent resides at a substantial distance from the deposing party's residence, the deposing party should be required to take the deposition at a location in the vicinity in which the deponent resides, even if the deponent is a party." *Id.* at 125.

Id. at 189.

While Judge Smith Camp has determined that this court has personal jurisdiction over the defendant, *see* Filing 42, that factor is insufficient, in and of itself, to require Dr. Ruder to travel to Omaha to be deposed. *See id.*

Although neither party's arguments are particularly compelling, having considered the parties' various writings, I find that Dr. Ruder should not be compelled to travel to Omaha to be deposed. I will not reconsider this decision.

IT IS ORDERED that plaintiff's motion to compel the defendant to appear for deposition in Omaha, Nebraska is denied.

Pursuant to NECivR 72.2, a party may appeal this order by filing a "Statement of Appeal of Magistrate Judge's Order" within ten (10) business days after being served with the order. The party shall specifically state the order or portion thereof appealed from and the basis of the appeal. The appealing party shall file contemporaneously with the statement of appeal a brief setting forth the party's arguments that the magistrate judge's order is clearly erroneous or contrary to law. The filing of a statement of appeal does not automatically stay the magistrate judge's order pending appeal. *See* NECivR 72.2(d).

DATED June 5, 2006.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge